

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re: Patent application of : Attorney Docket: 9325-3CT1 (156244)  
Doug Ulbrich et al.  
Serial No.: Not yet assigned : Continuation of 09/064,658;  
: filed April 23, 1998  
Filed: Herewith : Prior Art Unit: 1772  
For: SPLICE FOR A HEAT SHRINKABLE : Prior Examiner:  
LABEL : M. Patterson

**PRELIMINARY COMMUNICATION**

Commissioner for Patents  
Washington, D.C. 20231

This communication is submitted prior to examination of this continuation application. This communication addresses the final office action mailed in the corresponding parent application on March 14, 2001.

A check is enclosed to cover the filing fee for this continuation application in accordance with the application transmittal. Charge any additional fee required, or credit any over-payment, to Deposit Account 50-0573.

**CERTIFICATE OF MAILING  
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*Robert E. Flocco*  
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ROBERT E. FLOCCO  
Type or print name of person

## AMENDMENT

Claims 1-23 are included in the application specification as filed. Claims 1-20 correspond to the claims as pending in the parent application at the time of the final Office Action. (Claims 1-8, 10, 11, 13, and 15-25 were pending at the time of this final action and have been renumbered, with prior claim 24 having been cancelled). These claims have also been amended (over the prior text) to address the Section 112 objections by the examiner in the final action. Claims 21-23 are new. No new matter has been added.

## REMARKS

In a first office action dated September 15, 1999 for the parent application, the claims were rejected as obvious based upon a combination of U.S. Pat. No. 5,472,755 to Nibling, Jr. and U.S. Pat. No. 5,134,000 to Smythe and further rejected based on a combination of U.S. Pat. No. 5,403,635 to Hoffman and the Smythe patent. In a subsequent office action dated August 7, 2000, all of the obviousness rejections (then final) based on the Nibling/Smythe and Hoffman/Smythe combinations were withdrawn in favor of an obviousness rejection based on Nibling and U.S. Pat. No. 5,460,878 to Hostetter.

In the final office action mailed March 14, 2001, all of the obviousness rejections based on Nibling/Hostetter were withdrawn. The claims were rejected as obvious base on a combination of European Pat. No. 0498249 to Anderson et al., U.S. Pat. No. 4,200,676 to Caponigro and U.S. Pat. No. 3,086,242 to Cook.

In an interview with Examiners Marc Patterson and Harold Pyon on June 21, 2001, the combination of Anderson/Caponigro/Cook was discussed in detail. Also, a specimen of a prior art container having a colored non-heat shrinkable splice tape was shown and discussed. (See the photograph attached hereto as Exhibit A.) A specimen container according to the invention having a transparent "heat shrinkable" splice tape was also compared to the prior art container during the interview. (See the photograph attached hereto as Exhibit B.)

Applicants traverse the assertion that the foil reinforced polymer panel (13) of Caponigro is a splice tape having a "heat shrinkable" material. Caponigro shows "heat shrinkable" polymer material for the sleeve but teaches away from use of a "heat shrinkable" polymer in the foil reinforced panel. See, for example, column 4, lines 55-56, in Caponigro where it is stated that the bonding of the foil reinforcement layer to the polymer